

**Annual Report of Bankruptcy Appeals in Participating BAP
Districts for the Calendar Year July 1, 1997 – June 30, 1998,
(Including Disposition Statistics for Appeals Disposed of
Since July 1, 1996)**

Prepared by the BAP Clerk's Office
on behalf of the
United States Bankruptcy Appellate Panel
of the Tenth Circuit

August 19, 1998

PRELIMINARY NOTES

The following numbers were calculated from monthly reports provided by the Bankruptcy Courts. The relevant dockets of both the Bankruptcy Courts and the District Courts were examined to verify the information.

ELECTIONS (Filed Appeals)

The following chart shows the data for all appeals in which the notice of appeal was filed with the Bankruptcy Court between July 1, 1997, and June 30, 1998. The data contained in this table was selected using criteria that differs from that used to select data for the other tables contained in this report,¹ and thus the information in this table will not necessarily correspond to that contained in the other tables.

	'97-98:	% of Appeals:	Change '96-97 to '97-98:
All appeals:	196	100.0%	--
Initial election to appear before the BAP:	112	57.1%	+3.6%
Initial elections to have appeal heard by District Courts:	84	42.9%	-3.6%
BAP appeals transferred to District Court on subsequent election:	21 ²	10.7%	-5.2%
Total cases electing to proceed before BAP:	91	46.4%	+8.8%
Total cases electing to proceed before District Courts:	105	53.6%	-8.8%

¹For the purposes of this particular table, information was gathered regarding all appeals filed during the period from July 1, 1997, to June 30, 1998. All later tables show only appeals docketed by either the District Court or the BAP during that time period. Use of the notice of appeal date prevents undercounting elections where either the notice of appeal was disposed of by the Bankruptcy Court before the record was sent to the District Court, or where an election was granted by the BAP but the record had not been received by the District Court.

²This figure shows all elections to have an appeal heard by the U.S. District Court granted by the BAP from July 1, 1997, to June 30, 1998, regardless of when the notice of appeal was filed.

ELECTIONS (Docketed Appeals)

The following chart is based only upon cases docketed by either the District Courts or the BAP between July 1, 1997, and June 30, 1998. This accords with the practice of the Administrative Office.

	'97-98:	% of Appeals:	Change '96-97 to '97-98:
Total number of appeals docketed:	198	100.0%	--
Appeals initially docketed with the BAP:	113	57.1%	-2.2%
Appeals subsequently transferred to the District Courts:	21 ¹	10.7%	-7.3%
Appeals initially docketed with the District Courts:	85	42.9%	+2.2%

(cont'd)

¹This figure shows all elections to have an appeal heard by the U.S. District Court granted by the BAP from July 1, 1997, to June 30, 1998, regardless of when the appeal was filed. All of these elections were docketed by the District Court prior to June 30, 1998. In addition, the District Courts also docketed two appeals that were transferred by the BAP between 7/1/96 and 6/30/97.

ELECTIONS (Docketed Appeals) (cont'd)

The total number of appeals subject to final disposition before each court is as follows:

	'97-98:	% of Appeals:	Change '96-97 to '97-98:
Total appeals docketed and proceeding before both intermediate appellate courts:	200	100.0%	--
Appeals docketed and finally proceeding before the BAP:	92	46.0%	+3.8%
Appeals docketed and finally proceeding before District Courts:	108 ¹	54.0%	-3.8%
Appeals docketed with District Courts that were assigned to U.S. Magistrate:	45	22.5% ²	+3.5%

¹This figure includes two elections to the District Court that were transferred by the BAP prior to June 30, 1997, but that were not docketed by the District Court until after that date. See page 3, footnote 1, *supra*.

²This is 41.7% of all docketed District Court appeals.

DISPOSITIONS

The following chart is based upon all cases docketed by either the District Courts or the BAP for the two-year period from July 1, 1996, to June 30, 1998.

	Total:	% of All Docketed BAP Appeals:
Appeals docketed and finally proceeding before the BAP:	153 ¹	100.0%
Appeals disposed of by the BAP:	116	75.8%

	Total:	% of All Docketed District Court Appeals:
Appeals docketed and finally proceeding before the District Courts:	192	100.0%
Appeals disposed of by the District Courts:	104	54.2%
Disposed appeals in which US Magistrate was assigned:	31	16.1% ²

¹This total (153) does not equal the number of finally docketed appeals shown here (92) plus the number of finally docketed appeals shown in the Report for 1996-97 (62) because one appeal originally docketed in 1996-97 was a premature appeal that did not become final until the 1997-98 report.

²This is 29.8% of all dispositions entered by the District Courts.

DISPOSITIONS ON THE MERITS

The following calculations are based only on appeals actually disposed of by either the District Court or the BAP for the two-year period from July 1, 1996, to June 30, 1998.

	Total:	% of All Disposed BAP Appeals:
Appeals Disposed of by the BAP:	116	100.0%
Appeals Disposed of by the BAP on the Merits:	60	51.7%
Appeals Affirmed:	39	33.6% (65% of appeals disposed of on merits)
Appeals Reversed (or Reversed and Remanded):	21	18.1% (35% of appeals disposed of on merits)

	Total:	% of All Disposed District Court Appeals:
Appeals disposed of by the District Courts:	104	100.0%
Appeals Disposed of by the District Courts on the Merits:	55	52.9%
Appeals Affirmed:	40	38.5% (72.7% of appeals disposed of on merits)
Appeals Reversed (or Reversed and Remanded):	15	14.4% (27.3% of appeals disposed of on merits)

DISPOSITION TIME

The following calculations are based only on appeals actually disposed of by either the District Court or the BAP between July 1, 1996, and June 30, 1998. Note that the disposition time is measured from the date that the notice of appeal was filed with the Bankruptcy Court to the date of entry of the final disposition in the appeal.

BAP Appeals--Average Disposition Time:	142.3 ¹
Median Disposition Time:	144.0

District Court Appeals--Average Disposition Time:	217.5
Median Disposition Time:	186.0

¹Three of the appeals disposed of during the report period were filed with the District Court prior to the effective date of the BAP, and subsequently transferred to the BAP with the consent of all of the parties. Including those figures here would severely skew the results (an average of 957.3 days elapsed between the date the notice of appeal was filed and the date the BAP docketed the appeal). The disposition time for those three appeals averaged 107.7 days, measured from the date the notice of appeal was received to the date the appeal was disposed.

APPEALS TO CIRCUIT

The figures below provide the number of appeals from the intermediate appellate courts to the Tenth Circuit Court of Appeals for the two-year period from July 1, 1996, to June 30, 1998.

		% of Appeals Disposed of By That Court (District or BAP):
Appeals from BAP to Circuit:	19 ¹	16.4%
Appeals from District Courts to Circuit:	19 ²	18.3%

¹Nine of these appeals remained pending before the U.S. Court of Appeals for the Tenth Circuit as of June 30, 1998. Of the ten appeals disposed of, four were affirmed, and the remaining six were dismissed.

²Thirteen of these appeals remained pending before the U.S. Court of Appeals for the Tenth Circuit as of June 30, 1998. Of the six appeals disposed of, three were affirmed, and three were dismissed.